

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

DANIEL J. **PARKE** and DAVID A. WIEBELHAUS  
Junior Party  
(Application 11/250,543),

v.

DAVID **WIEKHORST**, SPRING STUTZMAN,  
JEFF STUTZMAN, SCOTT JUENGST, FRED JOHNSTON,  
JIM L. DICKMAN and ROBERT KENNY  
Senior Party  
(Patent 7,238,886).

---

Patent Interference No. 105,640 (SCM)  
(Technology Center 2800)

**Judgment –Bd.R. 127(b)(4)**

*Before: JAMESON LEE, SALLY C. MEDLEY, and MICHAEL P. TIERNEY,  
Administrative Patent Judges.*

MEDLEY, *Administrative Patent Judge.*

**A. Introduction**

Interference 105,640 was declared on 24 June 2008. No papers have been  
filed on behalf of the junior party Parke as required by Board Rules and the

Standing Order.<sup>1</sup> Moreover, Parke has not timely filed a response to the Order to Show Cause (Paper 3).

On 22 July 2008, Board personnel, Sonja Desperтт, telephoned Mr. Scott Lowe, counsel of record for Parke to inquire why Parke had not filed their initial papers and a response to the Order to Show Cause. Mr. Lowe informed Ms. Desperтт that Parke will not file any papers or respond in any way to the Order to Show Cause. Mr. Lowe's representation that Parke will not respond to the Order to Show Cause is an abandonment of the contest. An abandonment of the contest is construed as a request for adverse judgment. Bd. R. 127(b)(4).

Accordingly, it is

**ORDERED** that judgment be entered against Parke for count 1 (Paper 1 at 4);

**FURTHER ORDERED** that claims 67-73 of Parke's involved application are **FINALLY REFUSED**, 35 U.S.C. 135(a); and

**FURTHER ORDERED** that a copy of this judgment be entered in the administrative records of the involved Parke application and Wiekhorst patent.

**1 Within 14 days of the date of declaration, the parties must file:**

- (1) notice of lead and backup counsel (Bd.R. 108(b))
- (2) a clean copy of claims (Bd.R. 110(a))
- (3) notice of real party-in-interest (SO ¶ 8.1)
- (4) notice of related proceedings (SO ¶ 8.2)
- (5) a request for file copies (SO ¶ 109)

1 cc: (via electronic mail):  
2  
3 Attorney for Parke:  
4  
5 Scott L. Lowe, Esq.  
6 **MUNCY, GEISSLER, OLDS & LOWE, PLLC**  
7 4000 Legato Road, Suite 310  
8 Fairfax, VA 22033  
9 Tel: 703-621-7140  
10 Email: sll@mg-ip.com  
11  
12 Attorney for Wiekhorst:  
13  
14 David G. Schmaltz  
15 Alpaslan Sapmaz  
16 **MERCHANT & GOULD**  
17 80 South Eighth Street  
18 Minneapolis, MN 55402  
19 Tel: 612-332-5300  
20 Email: dschmaltz@merchant-gould.com